

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:18-cv-00534-FDW-DSC

ERNEST KING,

Plaintiff,

vs.

REGINA THOMAS and AMAZON
CORPORATION,

Defendants.

ORDER

THIS MATTER is before the Court on Defendant Amazon's Motion to Dismiss. (Doc. No. 8). For the reasons stated below, Defendant's Motion is DENIED without prejudice.

This case was originally filed on October 2, 2018 and Defendant Amazon made a motion to dismiss on October 19, 2018, only seventeen days later. Defendant Amazon moves for dismissal of this case under Rule 12(b)(4) and 12(b)(5), arguing that Plaintiff "failed to comply with the process and service of process requirements of Fed. R. Civ. P. 4." Id. at 1.

However, under the federal rules, Plaintiff has 90 days from the filing of his complaint to perfect service of his summons and complaint. Fed. R. Civ. P. 4(m). Since this time has not yet passed, Defendant's motion is DENIED because it is not yet ripe. See RDLG, LLC v. RPM Grp., LLC, Nos. 1:10-cv-204, 1:10-cv-233, 2010 WL 6594916, at *6 (W.D.N.C. Dec. 21, 2010) (mem) (finding "no factual or legal basis for relief under Rule 12(b)(5)" when the deadline for service had not yet passed). This denial is without prejudice, and Defendant can refile its motion as necessary in the future.

IT IS SO ORDERED.

Signed: October 24, 2018

A handwritten signature in black ink, reading "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

